

Department of State

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services, an officer of the Foreign Service should cite these regulations and should state clearly his reasons for refusing to act. In appropriate cases, the officer may furnish the inquirer with a copy of the annual list of attorneys (see § 92.82) practicing in the consular district or he may refer the inquirer to the Department for a list of attorneys.

(d) *Waiver of responsibility.* When an officer of the Foreign Service accedes to a request for the performance of a legal service, he should inform the applicant that the service is performed at the latter's risk and without any responsibility on the part of the United States Government or the officer performing the service.

(e) *Fees.* No fee should be charged for any legal services which may be performed under these regulations, beyond the fees or charges for specific services enumerated in the Tariff of Fees, Foreign Service of the United States of America (§ 22.1 of this chapter).

§ 92.82 Recommending attorneys or notaries.

(a) *Assistance in selecting American lawyers.* When any person in the district of a Foreign Service post desires to have the name of an attorney in the United States, the officer at the post may refer him to American law directories or other published references at his disposal, but he shall refrain from recommending any particular attorney.

(b) *Assistance in selecting foreign attorneys or notaries.* Persons applying to a Foreign Service post for services of a legal or fiduciary character or for assistance in selecting an attorney or notary capable of rendering the services in view, may be furnished the names of several attorneys or notaries in the district, or referred to the lists to be found in American or foreign law directories or other published references. Alternatively, they may be referred to bar associations or, where applicable, to the organization charged by local law with the responsibility for providing legal assistance.

(c) *Agreements for referral of legal business prohibited.* Officers of the Foreign Service shall not recommend particular attorneys or notaries to persons who apply to a Foreign Service post for

legal assistance, nor shall they make agreements with attorneys or notaries for the referral to them of inquiries for legal assistance.

§ 92.84 Legal process defined.

Legal process means a writ, warrant, mandate, or other process issuing from a court of justice. The term includes subpoenas, citations, and complaints.

§ 92.85 Service of legal process usually prohibited.

The service of process and legal papers is not normally a Foreign Service function. Except when directed by the Department of State, officers of the Foreign Service are prohibited from serving process or legal papers or appointing other persons to do.

[32 FR 11776, Aug. 16, 1967]

§ 92.86 Consular responsibility for serving subpoenas.

When directed by the Department of State, officers of the Foreign Service will serve a subpoena issued by a court of the United States on a national or resident of the United States who is in a foreign country unless such action is prohibited by the law of the foreign country.

[32 FR 11776, Aug. 16, 1967]

§ 92.87 Consular responsibility for serving orders to show cause.

Officers of the Foreign Service are required to serve orders to show cause issued in contempt proceedings on a person who has failed or neglected to appear in answer to a subpoena served in accordance with the provisions of § 92.86. (Section 1, 62 Stat. 949; 28 U.S.C. 1784.)

§ 92.88 Consular procedure.

With regard to the serving of subpoenas and orders to show cause referred to in §§ 92.86 and 92.87, section 1 of the act of June 25, 1948 (sec. 1, 62 Stat. 819, 28 U.S.C. 1783), provides that the subpoena shall designate the time and place for appearance before the court of the United States, and shall issue to any consular officer of the United States in the foreign country. The consular officer is required to make personal service of the subpoena

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and any order to show cause, rule, judgment or decree on the request of the Federal court or its marshal, and to make return thereof to such court after tendering to the witness his necessary travel and attendance expenses, which will be determined by the court and sent with the subpoena. When the subpoena or order is forwarded to the officer, it is usually accompanied by instructions directing exactly how service should be made and how the return of service should be executed. These instructions should be followed carefully.

§ 92.89 Fees for service of legal process.

No charge should be made for serving a subpoena or order to show cause issuing out of Federal court under the procedures set forth in §§ 92.86 and 92.87. The taking of the affidavit of the officer effecting the service, or the performance of any other notarial act which may be involved in making the return, should be without charge, under the caption "Exemption for Federal Agencies and Corporations" of the Tariff of Fees, Foreign Service of the United States of America (§ 22.1 of this chapter).

§ 92.90 Delivering documents pertaining to the revocation of naturalization.

Officers of the Foreign Service shall deliver, or assist in delivering, to designated persons, documents relating to proceedings in the cancellation of certificates of naturalization when such documents are forwarded by duly authorized officials of the Federal courts. The responsibility for furnishing detailed instructions on the procedure to be followed in delivering such documents rests with the court or with the United States attorney concerned, and officers should follow such instructions carefully.

§ 92.91 Service of documents at request of Congressional committees.

Officers of the Foreign Service have no authority to serve upon persons in their consular districts legal process such as subpoenas or citations in connection with Congressional investigations. All requests for such service

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should be referred to the Department of State.

§ 92.92 Service of legal process under provisions of State law.

It may be found that a State statute purporting to regulate the service of process in foreign countries is so drawn as to mention service by an American consular officer or a person appointed by him, without mention of or provision for alternate methods of service. State laws of this description do not operate in derogation of the laws of the foreign jurisdiction wherein it may be sought to effect service of legal process, and such State laws do not serve to impose upon American consular officers duties or obligations which they are unauthorized to accept under Federal law, or require them to perform acts contrary to Federal regulations (see § 92.85).

§ 92.93 Notarial services or authentications connected with service of process by other persons.

An officer of the Foreign Service may administer an oath to a person making an affidavit to the effect that legal process has been served. When an affidavit stating that legal process has been served is executed before a foreign notary or other official, an officer of the Foreign Service may authenticate the official character of the person administering the oath. The fee for administering an oath to a person making an affidavit or for an authentication, as the case may be, is as prescribed under the caption "Notarial Services and Authentications" in the Tariff of Fees, Foreign Service of the United States of America (§ 22.1 of this chapter), unless the case is of such nature as to fall under the caption, "Exemption for Federal Agencies and Corporations" of the same Tariff.

§ 92.94 Replying to inquiries regarding service of process or other documents.

Officers should make prompt and courteous replies to all inquiries regarding the service of legal process or documents of like nature, and should render such assistance as they properly